



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAY 28 2015** PETITION RECEIPT #: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:


Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this Form I-129, Petition for a Nonimmigrant Worker, seeking to classify the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Florida corporation established in [REDACTED] states that it operates a concierge business. It claims to be an affiliate of [REDACTED], the beneficiary's employer in Morocco. The petitioner seeks to employ the beneficiary as Chief Executive Officer of its new office in the United States.

On January 15, 2015, the director denied the petition, concluding that the petitioner failed to establish: (1) that it procured sufficient physical premises for its new office; or (2) that the new office would support a qualifying managerial or executive position within one year of approval of the petition.

The petitioner subsequently filed a Form I-290B, Notice of Appeal or Motion, moving to reopen the director's decision. The director granted the motion to reopen and reaffirmed the denial of the petition. The director again concluded that the petitioner failed to establish that (1) it has secured sufficient physical premises to commence operations, and (2) the beneficiary will be employed in a qualifying executive or managerial capacity within one year. The director noted that the petitioner submitted a lease for additional office space that was signed on December 14, 2014, subsequent to the date the petition was filed. The director also noted that the petitioner submitted a new business plan that restructured the organization to create an additional level of hierarchy. The director found that the additional evidence failed to demonstrate eligibility at the time of filing the petition and that the petitioner failed to overcome the grounds for denial.

On July 31, 2015, the petitioner filed the instant appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us for review. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to us within 30 calendar days. The record indicates that the petitioner did not file a brief or supplemental evidence within the allowed timeframe. Therefore, the record will be considered complete as presently constituted.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal

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In the instant matter, the petitioner has failed to specifically identify any erroneous conclusion of law or fact as a basis for the appeal.

The Form I-290B at Part 4 states that "[the petitioner] must provide a statement regarding the basis for appeal or motion" and instructs the petitioner to "provide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed." However, the petitioner failed to provide the required statement in support of the appeal. Nor did the petitioner submit a brief or additional evidence in support of the appeal within 30 days, despite indicating on the Form I-290B and its cover letter that it would do so. Accordingly, the appeal will be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, it has not sustained that burden.

ORDER: The appeal is summarily dismissed.